

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FIFTH DISTRICT

JANUARY TERM 2006

SHORN K. CALLWOOD,

Appellant,

v.

Case No. 5D06-411

STATE OF FLORIDA,

Appellee.

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Opinion filed June 23, 2006

3.850 Appeal from the Circuit Court  
for Volusia County,  
William A. Parsons, Judge.

Shorn K. Callwood, Jasper, *pro se*.

Charles J. Crist, Jr., Attorney General,  
Tallahassee, and Kristen L. Davenport,  
Assistant Attorney General, Daytona  
Beach, for Appellee.

SHARP, W., J.

Callwood appeals from a summary denial of his motion for post conviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. The trial court based its summary denial on the ground that the motion is successive, after reviewing a prior motion for post conviction relief filed on September 14, 2004, and the order denying it dated November 24, 2004. However, the trial court failed to attach the previous motion or order. Pursuant to Florida Rule of Criminal Procedure 3.850(d), a summary denial is permitted only if the motion, files and records in the case conclusively show the movant

is entitled to no relief. Accordingly, we remand this cause to the trial court so that it can attach the necessary documents to establish the motion is successive, or to take other appropriate action on the merits.

REVERSED and REMANDED.

GRIFFIN and LAWSON, JJ., concur.